

37th MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION
Friday September 20, 2002
Minutes

Chairman Wilson called the meeting to order at 1:00 p.m.

Commissioners present: Alcoreza, Beasley, Chase, Crofoot, Ginsburg, Malouf, Row, and Zanger

ITEM 1.

Approval of Minutes

Commissioner Ernest B. Crofoot made a motion to approve the Minutes of the July meeting of the Commission, which was seconded by Commissioner Lenys Alcoreza, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Ben Steffen, Deputy Director of Data Systems and Analysis, referred the Commissioners to the Data Systems and Analysis section of the *Update of Activities*.

Pamela Barclay, Deputy Director of Health Resources, referred the Commissioners to the Health Resources section of the *Update of Activities*.

Enrique Martinez-Vidal, Deputy Director of Performance and Benefits, announced that the Commission had created a new website page providing a guide for small employers and information regarding purchasing health insurance for the small group market. The website is at the following web address: <http://www.mhcc.state.md.us/smgrpmt/index.htm>. Mr. Martinez-Vida thanked Leslie LaBrecque, Jerry Petrik, and Janet Ennis for their hard work in creating this website. Mr. Martinez-Vidal referred the Commissioners to the Performance and Benefits section of the *Update of Activities* for further information

on the status of his division's projects. Copies of the *Update* were available on the documents table and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

CERTIFICATION OF ELECTRONIC HEALTH NETWORK (EHN): PayerPath

Chairman Wilson said that the Commission continues to expand the number of electronic health care networks that are certified. Ben Steffen presented information and requested that the Commission approve the certification of PayerPath as an electronic health network. Vice Chairman Malouf made a motion to approve the certification, which was seconded by Commissioner Alcoreza, and unanimously approved.

ACTION: PayerPath is hereby APPROVED as an electronic health network.

ITEM 4.

ACTION: INSTITUTIONAL REVIEW BOARD (IRB) — Consideration of IRB Recommendation on Anne Arundel Medical Center

Mr. Steffen said that the IRB met on September 12, 2002 and recommended approval of the release of DC discharge abstract data to Anne Arundel Medical Center. Commissioner Ernest Crofoot made a motion to approve the IRB recommendation, which was seconded by Commissioner Evelyn Beasley, and unanimously approved.

ACTION: The data request from Anne Arundel Medical Center is hereby approved for release.

ITEM 5.

ACTION: INSTITUTIONAL REVIEW BOARD (IRB) — Consideration of IRB Recommendation on Peninsula Regional Medical Center

Mr. Steffen said that the IRB met on September 12, 2002 and recommended approval of the release of DC discharge abstract data to Peninsula Regional Medical Center. Commissioner Marc E. Zanger made a motion to approve the IRB recommendation, which was seconded by Commissioner Walter E. Chase, Sr., and unanimously approved.

ACTION: The data request from Peninsula Regional Medical Center is hereby approved for release.

ITEM 6.

FINAL ACTION: REPEAL of COMAR 10.24.06, Local Health Planning Agencies

Chairman Wilson announced that the next four agenda items would be taking final action on regulations. Joel Tornari, Assistant Attorney General, said that COMAR 10.24.06 was obsolete. The Commission received no comments regarding the repeal of the regulation. Commissioner Larry Ginsburg made a motion to approve repeal of the regulation, which was seconded by Commissioner Constance Row, and unanimously approved.

ACTION: REPEAL of COMAR 10.24.06, Local Health Planning Agencies, is hereby APPROVED.

ITEM 7.

FINAL ACTION: REPEAL of COMAR 10.24.16, State Health Plan: Worcester County

Mr. Tornari said that COMAR 10.24.16 was also obsolete. No comments were received by the Commission regarding the repeal of this regulation. Commissioner Zanger made a motion to approve the repeal of the regulation, which was seconded by Commissioner Alcoreza, and unanimously approved.

ACTION: REPEAL of COMAR 10.24.16, State Health Plan: Worcester County, is hereby APPROVED.

ITEM 8.

FINAL ACTION: REPEAL of COMAR 10.24.10, Practice Parameters

Mr. Tornari said that COMAR 10.24.10 was obsolete as well. Again, no comments were received by the Commission regarding repeal of this regulation. Commissioner Zanger made a motion to approve the repeal of the regulation, which was seconded by Commissioner Alcoreza, and unanimously approved.

ACTION: REPEAL of COMAR 10.24.10, Practice Parameters, is hereby APPROVED.

ITEM 9.

FINAL ACTION: COMAR 10.25.11, Institutional Review Board

Mr. Tornari said that the Commission had approved modifications to COMAR 10.25.11 at the June meeting. The purpose of the proposed action is to expand those data requests subject to Institutional Review Board (IRB) review to include requests for sensitive data elements from all other Commission data bases as well. The proposed regulation also amends the list of sensitive data elements subject to IRB review to include all sensitive data elements held by the Commission that meet the definition of “sensitive data element” in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Again, the Commission received no comments regarding the proposed regulation. Commissioner Alcoreza made a motion to approve the regulation, which was seconded by Vice Chairman Malouf, and unanimously approved.

ACTION: COMAR 10.25.11, Institutional Review Board, is hereby APPROVED.

ITEM 10.

**PROPOSED ACTION AND RELEASE FOR PUBLIC COMMENT: COMAR 31.11.06,
Comprehensive Standard Health Benefit Plan — Staff Recommendations**

Chairman Wilson said that every year, the Commission follows a sequential process for review and modifications to the Comprehensive Standard Health Benefit Plan that must be offered in the small group market. In June, the Commission heard the results of the latest financial survey of carriers based on 2001 experience. Enrique Martinez-Vidal and John Welch, Principal, William M. Mercer, Inc. presented projections of future premium trends and estimates of the impact of benefit changes submitted to the Commission for evaluation. Mr. Welch said that cost increase projections are in the 12% to 15% range for this year and for the next two years. Mr. Martinez-Vidal said that this is the eighth annual review of the CSHBP. Laws passed by the 2002 General Assembly that automatically affect the CSHBP included a requirement for HMOs to reimburse non-contracting providers and non-contracting trauma physicians for

trauma care provided to HMO members. Staff recommended that no action is necessary since the legislation applies to all HMOs, including those offering coverage in the small group market. The General Assembly also passed a law extending Maryland's continuation of coverage to smaller employers, making coverage similar to that offered through COBRA. The General Assembly also passed a law reducing the open enrollment period offered to self-employed individuals from two times for at least 30 consecutive days in each six month period to once in a twelve-month period. Neither statutory change requires Commission action.

The General Assembly passed two mandates that could be considered for inclusion in the CSHBP: coverage for habilitative services for children to include coverage for congenital or genetic birth defects (staff recommended that the existing regulations be clarified, however; the coverage is already in effect) and coverage for residential crisis services for which staff recommended that the Commission adopt the provisions of the legislation into the CSHBP.

Three proposed mandates were not enacted by the 2002 General Assembly: expanding coverage for In Vitro fertilization; coverage for vaccinations against Meningococcal disease; and standing referral to a specialist (staff recommended that the Commission take no action on any of these failed mandates).

Stakeholders suggested several changes to the CSHBP, including coverage of surgical procedures for the treatment of morbid obesity (staff recommended that the Commission take no action); a coverage period for children's coverage for mental illness (staff advised that the CSHBP already covers this benefit); cost analysis of reducing the existing deductibles in the CSHBP; and a cost analysis of the existing prescription drug benefit in the CSHBP (staff will make a recommendation of these two issues following input at the October public hearing).

A public hearing, chaired by Commissioner Beasley will be held at 9:00 a.m. on October 9, 2002 at 4201 Patterson Avenue, Baltimore, Maryland, in Rooms 108 and 109. The Commission will take action on the staff recommendations at the October 17, 2002 meeting. Chairman Wilson thanked Mr. Welch and Mr. Martinez-Vidal for their presentations.

ITEM 11.

PROPOSED ACTION AND RELEASE FOR PUBLIC COMMENT: COMAR 10.24.01, Determination of Certificate of Need for Health Care Facilities — Modifications — Action on Proposed Permanent Regulations

Chairman Wilson announced that the next agenda item would be consideration of modifications to COMAR 10.24.01. Mr. Tornari said that the proposed modifications would add a performance requirement for major capital projects by hospitals and would create a performance requirement applicable only to home health agencies and community-based hospices. Further, the proposed modifications amend the provision governing approval of CON applications to eliminate the requirement that two consumer members of the Commission concur in the approval in order to bring the Commission's regulations into conformity with the Commission's enabling legislation, which no longer includes the consumer member requirement. Vice Chairman Malouf made a motion to release the proposed modifications for public comment, which was seconded by Commissioner Beasley, and unanimously approved.

**ACTION: COMAR 10.24.01, Determination of Certificate of Need for Health Care Facilities —
Modifications — is hereby RELEASED FOR PUBLIC COMMENT.**

ITEM 12.

ACTION ITEM: CERTIFICATE OF NEED (CON) — Home Health Agencies Based Outside Maryland –Proposal to Establish Administrative Units Eligible to Apply for Maryland-Based Medicare Provider Number-Action on Staff Recommendation

- Professional Home Health Care, Docket No. 02-07-2101
- Lutheran Home Care Services, Docket No. 02-06-2102
- Tender Loving Care, Docket No. 02-12-2103
- Personal Touch Home Care, Docket No. 02-15-2104

Chairman Wilson announced that Susan Panek, Chief of Certificate of Need, would present the next agenda item. Ms. Panek said that these actions had been necessitated by a change of administrative policy made by the Office of Health Care Quality (OHCQ) of the Department of Health and Mental Hygiene. OHCQ notified out-of-state based agencies on May 1, 2001 that in order to continue to provide home health agency services in Maryland, they must have a Maryland Medicare provider number and a Maryland office and that OHCQ would issue a six-month provisional license to permit the agencies to obtain both. Under the Commission's statute, an existing home health agency must obtain CON before establishing an additional branch office. Staff considered the information and documentation provided by the agencies and recommended that the Commission approve CON for a new Medicare sub-unit for each.

Vice Chairman Malouf made a motion that the Commission approve the CON for Professional Home Health Care, which was seconded by Commissioner Alcoreza, and unanimously approved.

ACTION: CERTIFICATE OF NEED (CON) — Home Health Agencies Based Outside Maryland – Proposal to Establish Administrative Units Eligible to Apply for Maryland-Based Medicare Provider Number for Professional Home Health Care, Docket No. 02-07-2101, is hereby APPROVED unanimously.

Commissioner Row made a motion that the Commission approve the CON for Lutheran Home Care Services, which was seconded by Vice Chairman Malouf, and unanimously approved.

ACTION: CERTIFICATE OF NEED (CON) — Home Health Agencies Based Outside Maryland – Proposal to Establish Administrative Units Eligible to Apply for Maryland-Based Medicare Provider Number for Lutheran Home Care Services, Docket No. 02-06-2102, is hereby APPROVED unanimously.

Commissioner Crofoot made a motion that the Commission approve the CON for Tender Loving Care, which was seconded by Commissioner Row, and unanimously approved.

ACTION: CERTIFICATE OF NEED (CON) — Home Health Agencies Based Outside Maryland – Proposal to Establish Administrative Units Eligible to Apply for Maryland-Based Medicare Provider Number for Tender Loving Care, Docket No. 02-12-2103, is hereby APPROVED unanimously.

Vice Chairman Malouf made a motion that the Commission approve the CON for Personal Touch Home Care, which was seconded by Commissioner Ginsburg, and unanimously approved.

ACTION: CERTIFICATE OF NEED (CON) — Home Health Agencies Based Outside Maryland – Proposal to Establish Administrative Units Eligible to Apply for Maryland-Based Medicare Provider Number for Personal Touch Home Care, Docket No. 02-15-2104, is hereby APPROVED unanimously.

ITEM 13.

STATE HEALTH PLAN FOR FACILITIES AND SERVICES: Acute Inpatient Services

- Review of Informal Public Comments on 2007 Acute Care Hospital Bed Need Projections
- State Health Plan for Facilities and Services — Acute Inpatient Services — Release for Informal Public Comment

Chairman Wilson announced the next agenda item. Paul Parker, Health Policy Analyst, reviewed the acute care section of the State Health Plan. The Commission released the 2007 acute care hospital bed need projection for informal public comment in June. The revisions including update of the goals, program policies, standards, and definitions components of the existing State Health Plan chapter. Those standards related to obstetrical services were eliminated as a result of the adoption of the new State Health Plan Chapter regarding obstetric services. Mr. Parker requested approval of the release of COMAR 10.24.10 for informal public comment. The Commission will accept comments through Monday, November 4, 2002. Commissioner Crofoot made a motion to approve the release for informal public comment, which was seconded by Vice Chairman Malouf, and unanimously approved.

ACTION: COMAR 10.24.10, STATE HEALTH PLAN FOR FACILITIES AND SERVICES: Acute Inpatient Services is hereby released for Informal Public Comment.

ITEM 14.

PRESENTATION: *Maryland Ambulatory Surgery Provider Directory* — 2002 Edition

Chairman Wilson announced the next agenda item. Christine Parent, Health Policy Analyst, presented a summary of this year's Maryland Ambulatory Surgery Provider Directory. There are 258 freestanding ambulatory surgical facilities in Maryland, with 186 being single specialty facilities, and 72 providing multi-specialty services. The analysis of this year's survey shows an increase in cases of thirteen percent over last year. The provider directory has been mailed to all providers and will be posted on the Commission's website at: http://www.mhcc.state.md.us/resources/reports/ambulatorysurgery/_amsurg.htm. Chairman Wilson thanked Ms. Parent for her presentation.

ITEM 15.

PRESENTATION: Advisory Committee on Outcome Assessment in Cardiovascular Care

Ms. Barclay provided an update on the status of the Advisory Committee on Outcome Assessment in Cardiovascular Care and its four distinct subcommittees.

The Long Term Issues Subcommittee of the Advisory Committee on Outcome Assessment in Cardiovascular Care held its second meeting on July 25, 2002. The subcommittee discussed recommendations regarding potential areas of focus for the subcommittee and a draft outline of the subcommittee's report.

At its second meeting on July 31st, the Quality Measurement and Data Reporting Subcommittee of the Advisory Committee on Outcome Assessment in Cardiovascular Care discussed a draft survey to collect information about hospital cardiac care data systems, and a draft outline of the subcommittee's report. Luis Mispireta, M.D., chairman of the subcommittee, reported on efforts to develop a consensus among the directors of the cardiac surgery programs in Maryland concerning the most effective and appropriate database for improving outcomes, and the best means of implementing statewide data collection and analysis.

At its July 31st meeting, the Quality Measurement and Data Reporting Subcommittee approved the creation of a work group to examine further the data consortium model.

Chaired by Jeffrey D. Jones, M.D., a cardiologist at Washington County Hospital in Hagerstown, Maryland, the Inter-Hospital Transport Subcommittee of the Advisory Committee on Outcome Assessment in Cardiovascular Care held its first meeting on August 22nd. The subcommittee discussed its charge, structure, and timetable. Cheryl Y. Bowen, M.S., M.A., R.N., Director of Commercial Ambulance Licensing and Regulation for the Maryland Institute for Emergency Medical Services Systems, gave a presentation on the Maryland Neonatal Intensive Care Transport System. The subcommittee also heard information about the development of a private inter-hospital transport system by three hospitals in the Baltimore City/Baltimore County area that provide cardiac surgery and interventional cardiology services.

The Interventional Cardiology Subcommittee of the Advisory Committee on Outcome Assessment in Cardiovascular Care held its first meeting on September 4th, at which the members discussed the charge, structure, and timetable of the subcommittee, and a proposed work plan and process. The subcommittee approved the preparation of a “state of the evidence” paper as part of its process. David O. Williams, M.D., Director of the Cardiovascular Laboratory and Interventional Cardiology at Rhode Island Hospital in Providence, Rhode Island, is chairman of the subcommittee.

Chairman Wilson thanked Ms. Barclay and her staff.

ITEM 16.

Hearing and Meeting Schedule

Chairman Wilson announced that the next scheduled meeting of the Maryland Health Care Commission will be on Thursday, October 17, 2002 at 4201 Patterson Avenue, Rooms 108-109, in Baltimore, Maryland at 1:00 p.m. The Commission’s offices will be moved to 4160 Patterson Avenue, Baltimore, Maryland 21215 on October 12, 2002. The Commission will hold its first meeting at the new offices in November. The Hearing and Meetings Schedule was available at the documents table, as well as on the Commission’s website.

ITEM 17.

Adjournment

There being no further business, the meeting was adjourned at 2:10p.m. upon motion of Commissioner Crofoot, which was seconded by Commissioner Ginsburg, and unanimously approved by the Commissioners.